UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/059,547	KAMEN, YAKOV
Office Action Summary	Examiner	Art Unit	
	Hoang-Vu A. Nguyen-Ba	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 October 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27 and 30-34</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27 and 30-34</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to amendment filed October 10, 2008.

2.   Claims 1-27 and 30-34 are pending. Claims 1, 13 and 25 are independent claims.

Response to Amendment

3.   Per Applicant's request, Claim 29 has been canceled.

Response to Arguments

4.   Applicant's arguments have been fully considered but they are not persuasive. The following is an examiner's response to Applicant's arguments.

Rejection under 35 U.S.C. 102

Applicant's arguments

        Claims 1, 13 and 25 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault"). Applicant respectfully traverses. Claims 1 and 13 recite, inter alia, comparing the number of block instances with the number of available information attribute sets and based on the comparison, mapping the available information attribute sets to the number of available block instances to generate mapped block instances. The Office Action contends that Arsenault discloses such a feature at col. 2, line 1 - col. 3, line 6. More particularly, the Office Action interprets "block instances" as the segments of Arsenault and "attribute sets" as the list of keywords of Arsenault. Applicant respectfully disagrees. Even assuming, arguendo, that such an interpretation is proper, the interpretation fails to anticipate claim 1 at least because Arsenault does not teach or suggest comparing the number of segments of Arsenault to the number of keywords of Arsenault. Indeed, no relationship exists between the number of segments of Arsenault and the number of keyword in Arsenault. Arsenault instead describes that the processor is programmed to compare each segment to the keyword to determine which segments have the keyword therein. See col. 2, line 13-17. As such, Arsenault fails to describe any significance of the number of segments or the number of keywords, let alone teaching or suggesting the feature of comparing the number of block instances with the number of available information attribute sets and based on the comparison, mapping the available information attribute sets to the number of available block instances to generate mapped block instances as recited in claims 1 and 13. Therefore, claims 1 and 13 are distinguishable from Arsenault.
        Claim 25 recites, inter alia, the memory operable to include a first queue to store active data elements and a second queue to store inactive data elements, wherein a number of block instances is" compared with a number of available data elements'. (Emphasis added). Similar to the reasons described above with respect to claims 1 and 13, Arsenault fails to teach or suggest such a feature. As such, claim 25 is patentably distinct from Arsenault.

Examiner's response

In Arsenault, the number of available segments is compared with the number of available keywords contained in a keyword table to determine which segments have the searched keyword(s) so that a list of the programs associated with segments containing keyword(s). It is further noted that the claim language does not specifically recite what kind of decision is made if the number is greater than, equal to or less than. The method does not use the "number" claimed and it appears that there is a gap between the step of comparing with the next step of mapping. One does not know whether the program will map if the number is greater than or equal or less than.

Rejection under 35 U.S.C. § 103(a)

<u>Applicant's arguments</u>

Claims 2-5, 10-11, 14-17, 22-23, 26-27, 29 and 30-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault in view of U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons"). Claims 6-7, 12, 18-19, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault in view of U.S. Patent No. 6,481,011 to Lemmons ("Lemmons011"). Claims 8-9 and 20-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault in view of Lemmons011 and in further view of U.S. Patent No. 6,732,367 to Ellis et al. ("Ellis"). Claims 32-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault in view of Lemmons011, further view Ellis, and in further view of U.S. Patent No. 6,754,906 to Finseth et al. ("Finseth"). Claim 34 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Arsenault in view of Finseth. Applicant respectfully traverses.
Claim 29 has been addressed above. Claims 2-5, 10-11, 14-17, 22-23, 26-27 and 30-31 depend from claims 1, 13 and 25, respectively, and are allowable for at least the same reasons as their respective base claims, and further in view of the additional novel and non-obvious features recited therein. Lemmons fails to cure the deficiencies of Arsenault with respect to claims 1, 13 and 25. As such, even assuming, but not conceding that a combination of Arsenault and Lemmons is proper, such a combination fails to teach or suggest the features of claims 1, 13 and 25. Therefore, claims 2-5, 10-11, 14-17, 22-23, 26-27 and 30-31 are allowable over the cited combination of references.
Claims 6-7, 12, 18-19, and 24 depend from claims 1, 13 and 25, respectively, and are allowable for at least the same reasons as their respective base claims, and further in view of the additional novel and non-obvious features recited therein. The addition of Lemmons011 fails to cure the deficiencies of Arsenault with respect to claims 1, 13 and 25. As such, even assuming, but not conceding that a combination of Arsenault and Lemmons011 is proper, such a combination fails to teach or suggest the features of claims 1, 13 and 25. Therefore, claims 6-7, 12, 18-19, and 24 are allowable over the cited combination of references.
Claims 8-9 and 20-21 depend from claims 1 and 13, respectively and are allowable for at least the same reasons as their respective base claims and further in view of the additional novel and non-obvious features recited therein. Neither Lemmons011 nor Ellis, alone or in combination, cures the deficiencies of Arsenault with respect to claims 1 and 13. As such, even assuming, but not conceding that a combination of Arsenault, Lemmons011, and Ellis is proper, such a combination fails to teach or suggest the features of claims 1 and 13. Therefore, claims 8- 9 and 20-21 are allowable.

Examiner's response

        Since the respective base claims are found not distinguishable over the art of record and the features recited in respective dependent claims 2-12, 14-24, 26-27, 29 and 30-31 are found unpatentable over Arsenault in view of Lemmons, the rejection of these claims are considered proper and maintained.

Applicant's arguments

        Claims 32 and 33 depend from claims 1 and 13, respectively, and are allowable for at least the same reasons as their respective base claims and further in view of the additional novel and non-obvious features recited therein. None of Lemmons, Ellis, nor Finseth cures the deficiencies of Arsenault with respect to claims 1 and 13. As such, even assuming, but not conceding that a combination of Arsenault, Lemmons, Ellis, and Finseth is proper, such a combination fails to teach or suggest the features of claims 1 and 13. Accordingly, Applicant respectfully submits that claims 32 and 33 are patentably distinct from the cited combination of references.

        For example, claims 32-33 recite, inter alia, that the display of each block instance mapped with the same information attributes as another block instance is identical. The Office Action contends that such a feature, while not taught or suggested in Arsenault or Lemmons, is described in Finseth. More particularly, the Office Action alleges that a description of displaying program titles with the same organizational categories spatially adjacent to one another is equivalent to the recited feature of claims 32 and 33. However, when read in context, such an interpretation fails to teach or suggest said features of claims 32 and 33. Finseth merely describes that the program titles share the same organizational category (see e.g., Finseth, col. 12, line 53 - col 13, line 42) without any description of identical block instances. Indeed, the program titles of Finseth are not identical (see e.g., FIG. 4 of Finseth). Stated differently, mere placement of different program titles with the same organization categories spatially adjacent to one another fails to constitute displaying each block instance mapped with the same information attributes as another block instance identically as recited in claims 32 and 33. As such, claims 32 and 33 are allowable for this additional reason.

        Claim 34 depends from claim 25 and is allowable for at least the same reasons as its base claim and further in view of the additional novel and non-obvious features recited therein. The addition of Finseth fails to cure the deficiencies of Arsenault with respect to claim 25. As such, even assuming, but not conceding that a combination of Arsenault and Finseth is proper, such a combination fails to teach or suggest the features of claim 25. Therefore, Applicant respectfully submits that claim 34 is allowable. For example, claim 34 recites, inter alia, two or more block instances display identical data elements. As discussed above, the Office Action alleges that such a feature is described in Finseth. For at least the reasons described above with respect to claims 32 and 33, Applicant respectfully disagrees and submits that claim 34 is allowable over the cited combination of references.

Examiner's response

        In Finseth, programs titles which belongs to the same organizational category must share a same attribute (same show time, e.g., "This week") with another program

title. When these program titles are displayed, they are displayed under the same category (e.g., identically) "This week."

Claim Rejections – 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1, 13 and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault").

Claims 1 and 13

Arsenault discloses at least:

determining a number of block instances available to a viewer in an interactive programming guide (IPG) (see at least 2:1—3:6; e.g., the claimed number of block instances being interpreted as Arsenault's number of segments associated with programs);

determining a number of available information attribute sets to be presented to the viewer (see at least 2:1—3:6; e.g., the claimed attribute sets being interpreted as Arsenault's list of keywords);

comparing the number of block instances with the number of available information attribute sets (see at least 2:1—3:6);

> based on the comparison, mapping the available information attribute sets to the
>
> number of available block instances to generate mapped block instances (see at least
>
> 2:1—3:6); and
>
>> displaying the mapped block instances contiguously (see at least FIG. 5).

Claim 25

Arsenault discloses at least:

> a processor (see at least FIG. 4, component 144); and
>
> a memory coupled with processor (see at least FIG. 4, component 148), the
>
> memory operable to include a first queue to store active data elements and a second
>
> queue to store inactive data elements, wherein the a number of block instances are
>
> compared with a number of available data elements (see at least 2:1 – 3:6; e.g., the
>
> claimed active data being interpreted as the segment associated with a program and the
>
> claimed inactive data being interpreted as list of keywords), and
>
>> wherein based on the comparison, the active data elements are displayed in
>
> visible block instances in an interactive programming guide (IPG) (see at least 2:1 –
>
> 3:6;), and
>
>> wherein the visible block instances are displayed contiguously (see at least FIG.
>
> 5).

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if
> the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would
> have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 2-5, 10-11, 14-17, 22-23, 26-27, 29 and 30-31 are rejected under 35 U.S.C. 103(a)
as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault") in view of
U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons").

Claims 2, 14 and 26

Arsenault does not specifically disclose the feature recited in the claims.

However, in an analogous art, Lemmons discloses *wherein each of the mapped block instances is associated with one or more structure attributes* (see at least 15:25-61; e.g., program of interest highlighted indicating the presence of the cursor).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature of Lemmons in Arsenault because the feature would allow the viewer to consider other programs that may be scheduled for telecast at the same time as the highlighted program before making a selection.

Claims 3 and 15

The combination Arsenault-Lemmons further discloses *wherein when the number of available information attributes is less than the number of block instances, two or more block instances are mapped with the same information attributes* (see at least Lemmons; FIG. 7 and 13:46-52; when the number of search criteria – e.g., Action and Rating – is less than the number of programs, the action-related programs are listed under the header R – e.g., True Lies, Hurricane Smith, Speed).

Claims 4 and 16

The combination Arsenault-Lemmons further discloses *wherein when the number of available information attributes is less than the number of block instances, one or more block instances is not visible to the viewer* (see at least Lemmons; FIG. 7 and 13:46-52; the remaining of the 78 programs found are not displayed on the screen of FIG. 7).

Claims 5 and 17

The combination Arsenault-Lemmons further discloses *wherein when the number of available information attributes is less than the number of block instances, the number of displayed mapped block instances is less than the number of available block instances* (see at

least Lemmons; FIG. 7 and 13:46-52; the remaining of the 78 programs found are not displayed on the screen of FIG. 7).

Claims 10, 22 and 29

The combination Arsenault-Lemmons further discloses *wherein the mapped block instances are displayed contiguously on a surface* (see at least Lemmons; FIG. 7, e.g., the program menu 206).

Claims 11 and 23

The combination Arsenault-Lemmons further discloses *wherein the surface is a bar* (see at least Lemmons; FIG. 7, column 206 which is a bar).

Claim 27

The combination Arsenault-Lemmons further discloses *wherein each data element is associated with one or more structure attributes* (see at least Lemmons; 8:62-67).

Claim 30

The combination Arsenault-Lemmons further discloses *wherein an inactive data element is displayed in a visible block instance by moving the inactive data element from the inactive queue to the active queue* (see at least Lemmons; 14:31-64, 15:47-55).

Claim 31

The combination Arsenault-Lemmons further discloses *wherein an inactive data element is displayed in the visible block instance by swapping the inactive data element with an active data element being displayed in the visible block instance* (see at least Lemmons; 14:31-64, 15:47-55).

9.   Claims 6-7, 12, 18-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault") in view of U.S. Patent No. 6,481,011 to Lemmons ("Lemmons011").

Claims 6 and 18

Arsenault does not specifically disclose *wherein each displayed mapped block instances is manipulated independently of the other displayed mapped instances.*

However, in an analogous art, Lemmons011 discloses the option to selecting assigning a color to selected program of interest (see at least FIG. 3, step 62) for the purpose of allowing a user to easily recognize a program when it appears in the program menu.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate this feature of Lemmons011 in Arsenault for the purpose discussed above.

Claims 7 and 19

The combination Arsenault-Lemmons011 further discloses *wherein each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes* (see at least Lemmons011, FIG. 3, steps 62-64).

Claim 12 and 24

The combination Arsenault-Lemmons011 further discloses *wherein the surface is associated with one or more surface attributes* (see at least FIGs. 5-6).

10.   Claims 8-9 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault") in view of U.S. Patent No. 6,481,011 to Lemmons ("Lemmons011") and further in view of U.S. Patent No. 6,732,367 to Ellis et al. ("Ellis").

Claims 8 and 20

The combination Arsenault-Lemmons011does not specifically disclose *wherein each displayed mapped block instance is manipulated by modifying the associated one or more information attributes.*

However, in an analogous art, Ellis discloses how to not display objectionable title in the program menu and change the objectionable title to an unobjectionable or generic one (see at least FIG. 8-11 and 9:3-46) for the purpose of preventing children from being tempted to view potentially objectionable programs.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Ellis in the combination Arsenault-Lemmons011 for the same purpose discussed above.

Claims 9 and 21

The combination Arsenault-Lemmons011 further discloses *wherein each displayed mapped block instance is manipulated by modifying the associated one or more structure attributes* (see at least Lemmons011, FIG. 3, steps 62-64).

The combination Arsenault-Lemmons011 does not specifically disclose *wherein each displayed mapped block instance is manipulated by modifying the associated one or more information attributes.*

However, in an analogous art, Ellis discloses how to not display objectionable title in the program menu and change the objectionable title to an unobjectionable or generic one (see at least FIG. 8-11 and 9:3-46) for the purpose of preventing children from being tempted to view potentially objectionable programs.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use this feature of Ellis in the combination Arsenault-Lemmons011 for the same purpose discussed above.

11.   Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault") in view of U.S. Patent No. 5,880,768 to Lemmons et al. ("Lemmons"), further in view of U.S. Patent No. 6,732,367 to Ellis et al. ("Ellis") and further in view of U.S. Patent No. 6,754,906 to Finseth.

Claims 32 and 33

The combination Arsenault-Lemmons does not specifically disclose *wherein the display of each block instance mapped with the same information attributes as another block instance is identical.*

However, in an analogous art, Finseth discloses that the program titles (e.g., the claimed attribute) are arranged in the display so that the program titles which belong to the same organizational categories are spatially adjacent (i.e., the claimed "wherein the display of the each block instance ... is identical) (see at least Abstract).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature as taught by Finseth in the combination Arsenault-Lemmons because the of this feature would help improve Arsenault's automation of creation of common information that can be displayed together.

12.   Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,925,650 to Arsenault et al. ("Arsenault") in view of U.S. Patent No. 6,754,906 to Finseth.

Arsenault does not specifically disclose *wherein the display of each block instance mapped with the same information attributes as another block instance is identical.*

However, in an analogous art, Finseth discloses that the program titles (e.g., the claimed attribute) are arranged in the display so that the program titles which belong to the same organizational categories are spatially adjacent (i.e., the claimed "wherein the display of the each block instance ... is identical) (see at least Abstract).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature as taught by Finseth in Arsenault because the of this feature would help improve Arsenault's automation of creation of common information that can be displayed together.

Conclusion

13.   **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire
THREE MONTHS from the mailing date of this action. In the event a first reply is filed within
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed
until after the end of the THREE-MONTH shortened statutory period, then the shortened
statutory period will expire on the date the advisory action is mailed, and any extension fee
pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In
no event, however, will the statutory period for reply expire later than SIX MONTHS from the
mailing date of this final action.

14.   Any inquiry concerning this communication or earlier communications from the
Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone number is (571) 272-
3701. The Examiner can normally be reached on Monday -Friday from 9:00 – 17:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's
Supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is
assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be
directed to the TC 2400 Group receptionist: 571-272-2400.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/
Primary Examiner, Art Unit 2421
December 30, 2008